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Security Council Committee established pursuant to resolution 1718 (2006) concerning the Democratic People's Republic of Korea

Note verbale dated 13 November 2006 from the Permanent Mission of the Republic of Korea to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Korea to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1718 (2006) and, with reference to the latter's note dated 1 November 2006, has the honour to submit the report on the steps that the Republic of Korea has taken with a view to implementing resolution 1718 (2006) (see annex).

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Annex to the note verbale dated 13 November 2006 from the Permanent Mission of the Republic of Korea to the United Nations addressed to the Chairman of the Committee

Report of the Republic of Korea on the Implementation of United Nations Security Council Resolution 1718 (2006)

I. Introduction

- The government of the Republic of Korea (ROK) is committed to faithfully implementing United Nations Security Council Resolution (UNSCR) 1718 and to rendering full cooperation to the Committee established pursuant to OP 12 of the Resolution.

- Prior to the adoption of UNSCR 1718, the ROK government already had in place a range of legislative and executive measures that ensure compliance with the requirements of UNSCR 1718. In addition, it has been conducting a thorough review of its policies with a view to identifying further steps that may be needed to ensure full implementation.

- For that purpose, the ROK government established an Inter-Ministerial Task Force comprising 14 ministries and government agencies co-chaired by the Deputy Minister for Policy Planning and International Organizations of the Ministry of Foreign Affairs and Trade and the Deputy Minister for Unification Policy and Public Relations of the Ministry of Unification. Beginning with its first meeting on 24 October, the Task Force has convened on a regular basis to collect information on the various measures that the respective ministries and agencies are taking in relation to UNSCR 1718 as well as to identify loopholes in the implementation system and find ways to better implement UNSCR 1718.

II. Export Control System of the Republic of Korea

◆ The Republic of Korea is a member of all international non-proliferation and export control regimes relating to nuclear, chemical and biological weapons, missiles and conventional weapons, such as the Nuclear Suppliers Group (NSG), the Missile Technology Control Regime (MTCR), the Australia Group (AG), the Zangger Committee (ZC) and the Wassenaar Arrangement (WA). Through participation in these multilateral regimes the ROK has been implementing strict export and import controls over WMD, missiles, other weapons and related materials in conformity with international standards.

Table 1. ROK's Membership in Export Control Regimes

Export Control Regime	Nuclear Suppliers Group (NSG)	Zangger Committee (ZC)	Australia Group (AG)	Missile Technology Control Regime (MTCR)	Wassenaar Arrangement (WA)
Year of Accession	1995	1995	1996	2001	1996

◆ Major laws and regulations on export controls include the *Foreign Trade Act, Technology Development Promotion Act, Atomic Energy Act, Defence Industry Act, South-North Exchanges and Cooperation Act,* and their related regulations. *The Combined Notice of Export/Import of Strategic Items and Technologies* covers all controlled items from the five multilateral export control regimes, and provides for detailed export control regulations, specification of controlled items, and guidelines for catch-all controls.

Table 2. Export Control-Related Laws

Laws	Controlled Items	Licensing Authorities
Foreign Trade Act	• Dual-use items • NSG Part II items	Ministry of Commerce, Industry and Energy (MOCIE)
Technology Development Promotion Act	• Technology Transfer	Ministry of Science and Technology (MOST)
Atomic Energy Act	• NSG Trigger List items (items specially designed or produced for nuclear use)	Ministry of Science and Technology (MOST)
Defence Industry Act	• Munitions	Defence Acquisition Program Administration (DAPA)
South-North Exchanges and Cooperation Act	• Items and technologies traded between South and North Korea	Ministry of Unification (MOU)

◆ The ROK government established its export control system for strategic items in 1992. The system has been strengthened and expanded over the years. Since January 2003, the catch-all system, which controls the export of non-controlled items and technologies that could be used for the development of weapons of mass destruction, has been in force. Furthermore, a comprehensive revision of the *Foreign Trade Act* was undertaken in September 2003, and the *Combined Notice of Export/Import of Strategic Items and Technologies* was wholly amended in October 2004 so as to fully meet international levels.

◆ In light of the increasing importance of the issue worldwide, the Ministry of Commerce, Industry and Energy (MOCIE) established the Strategic Items Control Division in February 2004 to reinforce the export control of strategic items.

◆ Furthermore, the Strategic Trade Information Center (STIC), a special organization affiliated with the Korea International Trade Association, was established in August 2004 to assist companies in the conduct of business related to strategic items. The STIC is entrusted by the government with the task of conducting preliminary reviews of strategic items. The Center operates an on-line Strategic Trade Information System jointly with MOCIE to assist companies in exercising voluntary export controls by providing relevant information on-line regarding preliminary reviews, export licensing procedures, global trends and domestic regulations governing strategic items.

- To strengthen the controls on sensitive technology, the Ministry of Science and Technology is currently revising the *Technology Development Promotion Act* and its related decree to provide a legal basis for controlling intangible technology transfers (ITT). The revision is expected to come into force by June 2007.

III. Export Control with regard to the DPRK

- ROK nationals are generally prohibited from supplying and transferring commodities as well as weapons to the Democratic People's Republic of Korea (DPRK) based on the *National Security Act* which has been in force since December 1948.

- However, since 1990 the ROK government has allowed commodities to be taken out to the DPRK with the permission of the Minister of Unification when deemed necessary for the promotion of mutual exchanges and cooperation between South and North Korea. In order to regulate related procedures, the *South-North Exchanges and Cooperation Act* and its related decree and regulation were enacted in August 1990.

- Pursuant to the *South-North Exchanges and Cooperation Act*, its related decree and regulation, the approval of the Minister of Unification is required to take controlled items out to the DPRK. If a person obtains approval to take out strategic items to the DPRK in a fraudulent or dishonest manner or takes them out without approval, he or she is subject to imprisonment of up to three years or a fine of up to ten million won, which is equivalent to US$ 11,000.

- For non-listed items, the ROK government has applied catch-all controls. For example, in 2005 it refused to approve the transfer of 26 items, including fermenters and freeze-drying equipment, requested by the DPRK in relation to their efforts to prevent the spread of Avian Influenza, in light of the possibility of the conversion of the items for WMD use.

- Furthermore, the ROK government has imposed stricter customs control on items taken out to the DPRK. The *Public Notice on Customs Clearance in South-North Trade* gives clear guidance in this regard.

IV. Implementation

OP.8 (a) All Member States shall prevent the direct or indirect supply, sale or transfer to the DPRK, through their territories or by their nationals, or using their flag vessels or aircraft, and whether or not originating in their territories, of:

(i) Any battle tanks, armoured combat vehicles, large caliber artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems as defined for the purpose of the United Nations Register on Conventional Arms, or related material including spare parts, or items as determined by the Security Council or the Committee established by paragraph 12 below (the Committee);

(ii) All items, materials, equipment, goods and technology as set out in the lists in documents S/2006/814 and S/2006/815, unless within 14 days of adoption of this resolution the Committee has amended or completed their provisions also taking into account the list in document S/2006/816, as well as other items, materials, equipment, goods and technology, determined by the Security Council or the Committee, which could contribute to DPRK's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes;

(iii) Luxury goods;

(b) The DPRK shall cease the export of all items covered in subparagraphs (a) (i) and (a) (ii) above and that all Member States shall prohibit the procurement of such items from the DPRK by their nationals, or using their flagged vessels or aircraft, and whether or not originating in the territory of the DPRK;

(Action taken and/or to be taken)

- Controlled Items

◆ To control the items specified in UNSCR 1718, the Ministry of Unification is revising its *Public Notice of the List of Goods for Approval for Taking-to or Bringing-from the DPRK*, and the *Public Notice on the List of Goods Banned for South-North Visitors and the Disposal of Such Goods*. The Ministry of Construction and Transportation will also incorporate the controlled items under UNSCR 1718 into the list of prohibited items in the *Guidelines on Approval of Aircraft Passing through the Territorial Airspace* under the *Aviation Act*.

◆ The Ministry of Unification is also drawing up a list of luxury goods. Once the list is finalized, the Ministry will revise the above-mentioned Public Notices.

o The main items brought in from the DPRK to the ROK are currently agricultural and fishery products, and metal products, while those taken to the DPRK are principally textile goods, and agricultural and fishery products.

- Strengthened Customs Clearance Procedure

◆ Following the adoption of UNSCR 1718, the ROK government is in the process of strengthening the customs clearance procedure under the *Public Notice on Customs Clearance in South-North Trade* in order to ensure that no controlled items will be taken out to the DPRK. In this regard, emphasis will be put on those commodities taken to the DPRK through land routes.

- Prevention of Supply, Sale or Transfer by ROK Nationals

◆ In order to prevent trade in items prohibited by UNSCR 1718, the Ministry of Unification will strictly enforce the requirement of prior permission for nationals of the ROK wishing to contact a national or an entity of the DPRK or visit the DPRK.

o Under the *South-North Exchanges and Cooperation Act*, to contact any DPRK national, an ROK national must report to the Minister of Unification in advance indicating the details of that contact. A national of the ROK or the DPRK must obtain permission from the Minister of Unification to visit the other side.

◆ The Ministry of Commerce, Industry and Energy (MOCIE) is presently in the process of revising the *Foreign Trade Act* in order to have the brokering of controlled items subject to the prior approval of the government.

◆ Additionally, the persons and entities to be designated by the 1718 Committee pursuant to OP 8(d) will be added to the MOCIE's *Database List of Persons and Entities Not Suitable for Export of Strategic Items*.

- Prevention of Supply, Sale or Transfer through ROK Territory

◆ There is no air route that allows airplanes to fly from or to the DPRK through any part of the territorial airspace of the Republic of Korea. An aircraft which arrives from or departs for the DPRK, suspected of carrying controlled items pursuant to UNSCR 1718, will not be allowed to fly through the territorial airspace of the ROK.

◆ Regarding a vessel of a third country which is in the territorial waters of the ROK and suspected of carrying controlled items as designated by OP 8(a) of UNSCR 1718, the ROK government will take relevant action according to the *Territorial Sea and Contiguous Zone Act*.

OP 8 (c) All Member States shall prevent any transfers to the DPRK by their nationals or from their territories, or from the DPRK by its nationals or from its territory, of technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of the items in subparagraphs (a)(i) and (a)(ii) above;

(Action taken and/or to be taken)

- The ROK government is currently revising the *Regulation on South-North Economic Cooperative Projects* and the *Regulation on South-North Socio-Cultural Cooperative Projects* to prevent any transfers of technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of the items in OP 8(a)(i) and OP 8(a)(ii).

- The ROK government will reinforce its review process with regard to the requirement of prior permission for ROK nationals wishing to contact a national or entity of the DPRK or visit the DPRK under the *South-North Exchanges and Cooperation Act*.

  - Prior to their departure for the DPRK, the Ministry of Unification briefs visitors on activities prohibited during their stay in the DPRK.

OP 8 (d) All Member States shall, in accordance with their respective legal processes, freeze immediately the funds, other financial assets and economic resources which are on their territories at the date of the adoption of this resolution or at any time thereafter, that are owned or controlled, directly or indirectly, by the persons or entities designated by the Committee or by the Security Council as being engaged in or providing support for, including through other illicit means, DPRK's nuclear-related, other weapons of mass destruction-related and ballistic missile-related programmes, or by persons or entities acting on their behalf or at their direction, and ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any persons or entities within their territories, to or for the benefit of such persons or entities;

(Action taken and/or to be taken)

- The ROK government has drafted a new integrated public notice and is ready to take necessary action in accordance with OP 8(d) of UNSCR 1718 once the 1718 Committee or the Security Council designates the persons or entities under OP 8(d).

OP 8 (e) All Member States shall take necessary steps to prevent the entry into or transit through their territories of the persons designated by the Committee or by the Security Council as being responsible for, including through supporting or promoting, DPRK policies in relation to the DPRK's nuclear-related, ballistic missile-related and other weapons of mass destruction-related programmes, together with their family members, provided that nothing in this paragraph shall oblige a state to refuse its own nationals entry into its territory;

(Action taken and/or to be taken)

- DPRK Nationals

◆ For ROK nationals, contact with DPRK nationals or visits to the DPRK are generally prohibited under the *National Security Act*. For nationals of the DPRK, the ROK government controls entry into the territory of the ROK through the review of applications for a visit permit.

o ROK nationals crossing the border to the DPRK and DPRK nationals crossing over to the ROK with the visit permits are subject to border screening procedures under the *South-North Exchanges and Cooperation Act*.

- Foreigners

◆ The ROK government will revise the *Entry Control List* of the *Immigration Control Act* so that foreigners to be designated as persons stipulated in OP 8(e) are denied entry into or transit through the territory of the Republic of Korea.

> *OP.8 (f) In order to ensure compliance with the requirements of this paragraph, and thereby preventing illicit trafficking in nuclear, chemical or biological weapons, their means of delivery and related materials, all Member States are called upon to take, in accordance with their national authorities and legislation, and consistent with international law, cooperative action including through inspection of cargo to and from the DPRK, as necessary;*

(Action taken and/or to be taken)

- Inspection of Land Cargo

◆ The ROK government has been inspecting cargo going to or coming from the DPRK in accordance with the *Public Notice on Customs Clearance in South-North Trade*.

◆ Following the adoption of UNSCR 1718, emphasis will be put on those commodities taken to the DPRK through land routes.

- Inspection of Sea Cargo

◆ As a peace regime has not yet been established on the Korean Peninsula following the end of the Korean War, the ROK government does not recognize the right of innocent passage in its territorial waters for DPRK vessels, either commercial or non-commercial, except for those granted permission under the *South-North Agreement on Maritime Transportation* (hereinafter referred to as "the *Agreement*").

◆ Maritime transportation between the ROK and the DPRK is currently governed by the above-mentioned bilateral *Agreement* which entered into force on August 1, 2005. Through the *Agreement*, the ROK and the DPRK have designated sea lanes between some ports of the two sides, allowed vessels of one side to navigate in the sea lanes with prior permission from the other side, and given commercial vessels of the other side the same treatment in their ports as they grant to their own vessels. The sea lanes thus designated in the *Annex to the Agreement* lie well beyond the

outer limits of either side's territorial seas except for the Jeju Channel between the Korean Peninsula and Jeju Island, where a sea lane of approximately 41 miles cuts through the territorial waters of the Republic of Korea.

◆ Pursuant to the *Annex to the Agreement*, DPRK vessels which plan to navigate through the maritime areas under ROK control shall submit an Application Form for Navigation (indicating the names of the crew and passengers as well as a list of the cargo) to the ROK maritime authorities three days prior to their departure (Article 1 (1) of the *Annex*). During their passage through the waters under ROK control, such DPRK vessels shall not engage in, inter alia, transportation of "weapons or any parts thereof" or "undermine peace, public order or security of the other Party by acts irrelevant to the navigation" (Article 2 (6) of the *Annex*). Pursuant to the *Agreement*, any vessel in breach of Article 2 (6) of the *Annex*, refusing to respond to radio enquiries or suspected of fleeing or undertaking any unauthorized deviation from designated sea lanes may be subject to such measures as stopping, boarding or inspecting for verification by the maritime authorities (Article 2 (8) of the *Annex*). If the vessel in question is found to have violated the *Annex*, the maritime authorities may caution the vessel, take corrective actions, or demand that the vessel leave the sea lane immediately (Article 2 (9) of the *Annex*).

◆ Bearing in mind the letter and spirit of UNSCR 1718, the ROK government is committed to not granting a navigation permit under the *South-North Agreement on Maritime Transportation* to any DPRK vessel carrying on board or suspected of carrying any items prohibited under UNSCR 1718.

◆ Consistent with the *Agreement* and its *Annex*, the ROK authorities stand ready to take any necessary steps, including stopping, boarding, and inspecting of any DPRK vessel passing through ROK-controlled maritime areas which has been granted a permit under the *Agreement* but is suspected of breaching the *Agreement*, in particular by shipping weapons or their parts. If the ship is found to be carrying weapons and/or their parts, or is in any other violation of the *Agreement*, the ROK authorities will take all necessary measures as appropriate to the specific circumstances, in accordance with the *Agreement*. //End//